

May 26, 2011

Via efile and UPS Overnight Delivery

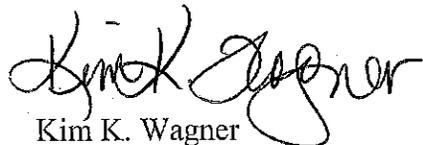
Annette Taylor
Filing Center
Public Utility Commission of Oregon
550 Capitol Street NE
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Salem, OR 97308-2148

Re: *In the Matter of CenturyLink, Inc., Application for Approval of Merger between
CenturyTel, Inc. and Qwest Communications International, Inc.*
Oregon PUC Docket UM 1484

Dear Ms. Taylor:

Enclosed for filing in the above referenced proceeding is Integra Telecom of Oregon, Inc. Notice of Appearance of Theodore Gilliam, and Response of Integra and PAETEC Regarding Most Favored State Merger Condition No. 54. Also enclosed is a Certificate of Service. The original and one copy of this letter will follow by UPS overnight delivery.

Sincerely,



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CERTIFICATE OF SERVICE
UM 1484

I hereby certify that the attached **INTEGRA TELECOM OF OREGON, INC. NOTICE OF APPEARANCE and RESPONSE OF INTEGRA AND PAETEC REGARDING MOST FAVORED STATE MERGER CONDITION NO. 54** was served on the following persons on May 26, 2011, by email and/or U.S. Mail to the following parties:

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Dated: May 26, 2011



Kim K. Wagner

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 1484

In the Matter of

CENTURYLINK, INC.

Application for Approval of Merger
between CenturyTel, Inc. and
Qwest Communications International, Inc.

JOINT RESPONSE OF INTEGRA AND PAETEC

REGARDING MOST FAVORED STATE MERGER CONDITION NO. 54

Integra Telecom of Oregon, Inc., Advanced TelCom, Inc., Electric Lightwave, LLC, Eschelon Telecom of Oregon, Inc., Oregon Telecom Inc., and United Telecommunications Inc. d/b/a Unicom (collectively “Integra”) and McLeodUSA Telecommunications Services L.L.C. d/b/a PAETEC Business Services (“PAETEC”) jointly submit these comments in response to Most Favored State (“MFS”) Merger Condition Number 54 in Appendix A to Commission Order Number 11-095 entered on March 24, 2011 in this matter (“Order”). The Commission conditioned its approval of the Qwest-CenturyLink merger on compliance with the requirements set forth in Appendix A (Order, p. 1). Merger Condition No. 54 in Appendix A states:

The Conditions set forth in this order may be expanded or modified as a result of regulatory decisions in other states and the FCC, including decisions based upon settlements, that impose conditions or commitments related to this merger. The Commission may adopt any commitments or conditions from other states and the FCC that are related to addressing harms of this transaction if:

The commitment or condition does not result in the combined company being required to provide a "net benefit" and either:

- i. The Commission or Staff has not previously identified the harm to Oregon ratepayers and such harm is applicable to Oregon; or
- ii. The commitments or conditions in a final order of another state and the FCC are more effective at preventing a harm previously identified by the Commission or its Staff.

Should commitments or conditions meeting the requirements of subsections i. or ii. of this paragraph occur, the Commission shall conduct an expedited proceeding as follows:

- a) Within thirty (30) days following the close of the transaction, CenturyLink will provide the Commission Staff and all intervening parties in docket UM 1484 with copies of all final orders of other state Commissions and the FCC
- b) Within thirty (30) days after the service of such filings upon Staff and intervening parties, any party to this proceeding may file with the Commission its response, including its position as to whether any of the covenants, commitments and conditions from the other jurisdictions (without modification of the language thereof except such non-substantive changes as are necessary to make the commitment or condition applicable to Oregon), meets the requirements set forth above, and should be adopted in Oregon. Any party filing such a response should serve it upon the docket UM 1484 parties.

During the course of these proceedings, certain settlement agreements were entered into between Qwest and CenturyLink (the “Joint Applicants”) and other parties. The Integra Agreement was filed on November 9, 2010, and the Joint CLEC Agreement was filed on March 8, 2011. The Joint CLEC settlement agreement indicates that the Joint CLECs have elected to opt in to the Integra Agreement, with certain modifications. The Joint CLEC Agreement states, with respect to Operational Support Systems (“OSS”) and certain other terms, that the settlement agreement “applies throughout the Qwest ILEC 14-state territory,” which includes Oregon. When the Joint Applicants filed the Joint CLEC Agreement with the Commission on March 8, 2011, they said that “there are no provisions in the agreement that require this Commission’s action in order for them to take effect.” In that March 8, 2011 letter, the Joint Applicants also described some provisions of the agreement as “self-effectuating” and others as “available to CLECs upon request.” Paragraph 15 of the Integra Agreement states:

After fully executed, filed with and, where necessary, approved by a Commission, this Agreement will be made available to any requesting carrier. Additionally, if an order approving this transaction includes any condition not contained in this Agreement or includes provisions inconsistent with those contained in this Agreement, the Merged Company will make that condition or provision available to other carriers in that state upon request, to the extent applicable.

The Joint CLECs adopted Paragraph 15 of the Integra Agreement without modification, making Paragraph 15 a part of the Joint CLEC Agreement. On page 6 of the Joint CLEC

Agreement, the parties to that agreement added:

Nothing in this agreement shall prevent Joint CLECs from obtaining the benefit of additional FCC conditions not addressed in this Agreement, whether they are based on voluntary commitments by the merging parties or conditions mandated by the FCC. . . .

Paragraph 15 of the Integra Agreement and the above-quoted paragraph of the Joint CLEC Agreement do not contain any deadline by which a requesting carrier may take advantage of these provisions.

On March 18, 2011, the Federal Communications Commission (“FCC”) issued an order in WC Docket No. 10-110 in which the FCC accepted certain commitments made by CenturyLink as conditions of merger approval.¹ CenturyLink is therefore bound by those conditions based on its commitment, without the need for CLECs or state commissions to “opt in” to them. For example, CenturyLink committed that it will not replace Qwest OSS or integrate it with any other OSS for at least 30 months following the Merger Closing Date, and thereafter will provide a level of wholesale service quality that is not less than that provided by Qwest prior to the Merger Closing Date, with functionally equivalent support, data, functionality,

¹ *In the matter of Applications filed by Qwest Communications International Inc. and CenturyTel, Inc. d/b/a CenturyLink for Consent to Transfer Control*, WC Docket No. 10-110 (March 18, 2011) [“FCC Order”], ¶20. Pages 1 and 11-12 and Appendix C of the FCC Order are provided as Attachment A to this Joint Response.

performance, electronic flow through, and electronic bonding,² and Qwest is bound in any event to meet that condition.

CenturyLink's commitments to the FCC are minimum conditions. For example, per an FCC condition, CenturyLink must provide commissions and CLECs at least 180 days notice and file a proposed transition plan before replacement or integration of any of the Qwest OSS.³ That minimum 180-day time period does not alleviate CenturyLink from its obligation under, or replace, the condition in the Integra Agreement [paragraph 12(a)] and Order Appendix A [Condition 27(a)] to provide at least 270-days notice with a detailed plan to the Commission and affected parties.

Similarly, some FCC commitments have time limits associated with them that are minimum timeframes only. CenturyLink's "voluntary" commitments in Appendix C to the FCC Order state that, unless otherwise specified, CenturyLink's commitments will expire three years from the Transaction Closing Date.⁴ While the "voluntary" nature of the commitment may expire in three years, that does not mean that the obligation ends or sunsets in three years. For example, one CenturyLink commitment, which does not specify otherwise regarding the three-year time period, states that CenturyLink will process orders in compliance with federal and state law,⁵ and another CenturyLink commitment states that CenturyLink will not seek to recover through wholesale service rates one-time transfer, branding or other merger-specific costs.⁶ CenturyLink must continue to process orders in compliance with federal and state law after the "voluntary" three-year period, and neither Oregon Merger Condition No. 9 nor Integra

² FCC Order, Appendix C, ¶IV(A)1).

³ FCC Order, Appendix C, ¶IV(A)2).

⁴ FCC Order, Appendix C, p. 25.

⁵ FCC Order, Appendix C, ¶IV(D).

⁶ FCC Order, Appendix C, ¶IV(L).

Agreement paragraph 1 (both relating to one-time transaction-related costs) expires after three years.

The FCC expressly recognized that the OSS in legacy Qwest territory will continue to be subject to the terms of Qwest’s Section 271 approvals on an ongoing basis.⁷ The FCC pointed to CenturyLink’s representation that the company will continue to comply with all of its Section 271 and Bell Operating Company (“BOC”) obligations going forward:

CenturyLink responds that, though it has not previously operated subject to the requirements of Section 271, ‘it is fully aware of (and has acknowledged) its duty to do so within Qwest’s in-region service areas, and the company will ensure that the resources and expertise required to meet those obligations are in place.’ It further asserts that ‘all rights that competitive LECs enjoy under Sections 251 or 271 will be unaffected by the merger,’ and that it intends to meet all of its legal obligations. . . . CenturyLink will be a BOC in the legacy Qwest territory following this transaction. . . . Consistent with this definition [of “BOC”] and Commission precedent, we determine that CenturyLink is a successor to the former U S West Communications Company and therefore responsible for all obligations that apply to BOCs under the Act in the former U S West Communications Company territories. In the legacy Qwest territory, post-merger CenturyLink will be subject to all state and federal obligations – and all applicable remedies for violation of those obligations – that Qwest was subject to due to its BOC status.⁸

In Oregon, in legacy Qwest territory, the post-merger company is therefore subject to all Section 271 and BOC obligations on a going forward basis, without further action required by the Commission. One of these ongoing Section 271 obligations, for example, is the obligation to provide Qwest’s Change Management Process (“CMP”)⁹ to help prevent backsliding and to help afford CLECs with a meaningful opportunity to compete.¹⁰ In addition to its Section 271 obligation to maintain CMP, the Merged Company is obligated pursuant to Merger Condition

⁷ FCC Order, footnote 76 to ¶22.

⁸ FCC Order, ¶¶26-27 (footnotes omitted).

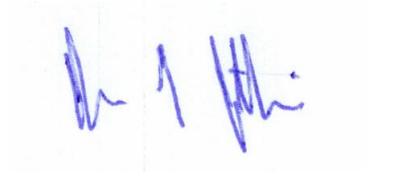
⁹ Section 2.1 of the Qwest CMP Document provides that a unanimous vote is required to change Qwest’s CMP. The CMP Document is available at <http://www.qwest.com/wholesale/cmp/>.

¹⁰ See, e.g., *In the Matter of Application by Qwest Communications International Inc. for Authorization to Provide In-Region, InterLATA Services in Arizona*, WC Docket No. 03-194, Rel. Dec. 3, 2003, ¶20 (citing Bell Atlantic FCC 271 Order).

No. 37 (Order Appendix A, page 11) and Integra Agreement paragraph 10 to make available on an ongoing basis the types and level of data, information, and assistance that Qwest made available as of the Closing Date concerning Qwest's OSS and Qwest's business practices and procedures, including but not limited to CMP.

Oregon Merger Condition 54 (Order Appendix A, page 14) refers to the potential for an expedited proceeding regarding commitments or conditions related to the merger that may be or become available in other contexts. As the above review of such merger conditions shows, however, no additional Commission action is necessary to effectuate the availability of merger conditions approved by the FCC or other state commissions to carriers in Oregon. The Joint CLEC Agreement is in many respects applicable by its terms in Oregon, and paragraph 15 of the Integra and Joint CLEC agreements requires the Merged Company to make other terms available to requesting carriers. No opt-in or other action is required to avail oneself of commitments that CenturyLink must in any event meet, such as its commitments to the FCC and its ongoing obligations under Sections 252 and 271 of the Act. If any party disagrees or requests that the Commission conduct an expedited proceeding, or the Commission otherwise initiates a proceeding, however, Integra and PAETEC reserve their right to participate.

Respectfully submitted this 26th day of May, 2011.



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